

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 363

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Manny M. Aragon

AN ACT

RELATING TO RACETRACKS; DISTRIBUTING A PORTION OF THE
PARI-MUTUEL TAX TO THE STATE FAIR COMMISSION; ELIMINATING THE
CAPITAL IMPROVEMENTS OFFSET; AUTHORIZING THE STATE FAIR TO
ENTER INTO A LONG-TERM LEASE WITH A RACETRACK LICENSEE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 16-6-15 NMSA 1978 (being Laws 1935,
Chapter 69, Section 3, as amended) is amended to read:

"16-6-15. ADDITIONAL POWERS.--In addition to the powers
which it may now have, the New Mexico state fair shall have
power to:

A. acquire, by purchase, gift or the exercise of
the right of eminent domain, and hold and dispose of real or
personal property or rights or interests therein except as
limited by Section 13-6-2.1 NMSA 1978, which provisions

.149320.3

underscored material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 requiring state board of finance approval of certain actions
2 are applicable to the state fair. The right of eminent domain
3 ~~[whenever sought to be exercised under the provisions of this~~
4 ~~article]~~ shall be exercised in the same manner as is ~~[now or~~
5 ~~may hereafter be]~~ provided for the exercise of such power by
6 the state or any county, municipality or school district;

7 B. build, construct, improve, repair or maintain
8 buildings, structures, improvements, grounds and equipment
9 which may be required by or convenient for the purpose of
10 operating a state fair;

11 C. enter into a new long-term lease, not to exceed
12 twenty-five years, for the purpose of providing a lessee that
13 is a racetrack licensee with the use of buildings and other
14 facilities on the grounds of the state fair;

15 ~~[G.]~~ D. acquire any project and to own, operate and
16 maintain such project;

17 ~~[D.]~~ E. accept grants of money, materials or
18 property of any kind from a federal agency upon such terms and
19 conditions as the federal agency may impose;

20 ~~[E.]~~ F. borrow money and issue bonds and provide
21 for the payment of the same and for the rights of the holders
22 thereof, provided that the commission shall not issue bonds,
23 negotiate loans or renegotiate loans without the prior approval
24 of the state board of finance; and

25 ~~[F.]~~ G. perform all acts and do all things

.149320.3

underscored material = new
[bracketed material] = delete

1 necessary or convenient to carry out the powers granted in this
2 article, or heretofore granted, to obtain loans or grants or
3 both from any federal agency and to accomplish the purposes of
4 this article and secure the benefits of the Recovery Act."

5 Section 2. Section 60-1-15 NMSA 1978 (being Laws 1933,
6 Chapter 55, Section 9, as amended) is amended to read:

7 "60-1-15. TAX LEVIED--CERTAIN LICENSE FEES AND TAXES
8 PROHIBITED.--

9 A. In addition to the daily tax provided in Section
10 60-1-8 NMSA 1978, a tax of two and three-sixteenths percent is
11 levied on the gross amount wagered each day at each place where
12 horse racing is conducted by any state fair association
13 designated by law that in good faith conducts a public fair and
14 exhibition of stock and farming products or where horse racing
15 for profit is held. The tax shall be paid from the commissions
16 of the licensee.

17 B. To encourage the improvement of horse racing
18 facilities for the benefit of the public, breeders and horse
19 owners and to increase the revenue to the state from the
20 increase in pari-mutuel wagering and tourism resulting from
21 these improvements, not more than [~~two percent~~] one-half of the
22 tax levied under Subsection A of this section

23 [~~(1)~~] for the first two hundred fifty thousand
24 dollars (\$250,000) of daily handle only, shall be offset for
25 class A licensees by the amount that each licensee expends for
.149320.3

underscored material = new
[bracketed material] = delete

1 capital improvements or in financing term investment in capital
2 improvements at existing racetrack facilities and for class B
3 licensees by the amount that the licensee expends for capital
4 improvements, not to exceed fifty percent of the tax levied
5 under this section, and by the amount the licensee expends for
6 advertising, marketing and promoting horse racing in the state,
7 not to exceed fifty percent of the tax levied under this
8 section. The offset provided in this paragraph shall also
9 apply to the daily handle generated at its facility by a
10 licensee engaged solely in simulcasting pursuant to Section
11 60-1-25 NMSA 1978. The term "capital improvement" means any
12 capital investment in items that are subject to depreciation
13 under the United States Internal Revenue Code of 1986 and are
14 approved by the state racing commission [and

15 ~~(2) for class A licensees for the period~~
16 ~~through June 30, 1995 for the total amount wagered each day on~~
17 ~~amounts in excess of two hundred fifty thousand dollars~~
18 ~~(\$250,000) but not in excess of three hundred fifty thousand~~
19 ~~dollars (\$350,000), shall be offset by the amount that each~~
20 ~~licensee expends for advertising, marketing and promoting horse~~
21 ~~racing in the state. The offset provided in this paragraph~~
22 ~~shall also apply to the daily handle generated at its facility~~
23 ~~by a licensee engaged solely in simulcasting pursuant to~~
24 ~~Section 60-1-25 NMSA 1978. The licensee is required to keep~~
25 ~~accurate records of any expenditures made pursuant to this~~

.149320.3

underscored material = new
[bracketed material] = delete

1 ~~paragraph, and the state auditor is required to audit the~~
2 ~~expenditures and submit his report to the state racing~~
3 ~~commission].~~

4 C. To compensate for the additional municipal
5 services required by the location of a racetrack within a
6 municipality, an amount of revenue derived from the tax levied
7 on such a racetrack under Subsection A of this section, above
8 the amount offset by capital expenditures and advertising as
9 provided in Subsection B of this section, shall be transferred
10 to the municipal treasurer of the municipality in which the
11 track generating the revenue is located for expenditure by the
12 municipality in providing those additional municipal services.
13 The amount to be transferred shall be determined in accordance
14 with the provisions of Section 60-1-15.2 NMSA 1978.

15 D. An amount equal to one-half of the tax levied
16 pursuant to Subsection A of this section shall be transferred
17 to the state fair commission for expenditure on capital
18 improvements at the state fairgrounds, other than improvements
19 of the casino and racetrack and related facilities.

20 ~~[D.]~~ E. Accurate records shall be kept by the
21 licensee to show all commissions, total gross amounts wagered
22 and breakage, as well as other information the state racing
23 commission may require. Records shall be open to inspection
24 and shall be audited by the commission or any of its authorized
25 representatives. Should any licensee fail to keep records

.149320.3

underscored material = new
[bracketed material] = delete

1 accurately and intelligibly, the commission may prescribe the
2 method in which the licensee shall keep records.

3 ~~[E-]~~ F. All remaining revenues collected as a
4 result of the tax on the gross amount wagered shall be
5 deposited in the state general fund.

6 ~~[F-]~~ G. Notwithstanding any other provision of law,
7 no political subdivision of this state may impose any
8 occupational tax against a racetrack operating under authority
9 of a license granted by the state racing commission. No
10 political subdivision may levy an excise tax against any
11 racetrack operating under authority of a license granted by the
12 state racing commission, except that ~~[taxes imposed pursuant to~~
13 ~~the County Gross Receipts Tax Act, the County Fire Protection~~
14 ~~Excise Tax Act, the County Sales Tax Act, the Municipal Gross~~
15 ~~Receipts Tax Act, the Supplemental Municipal Gross Receipts Tax~~
16 ~~Act and the Special Municipal Gross Receipts Tax Act]~~ local
17 option gross receipts taxes may be imposed to the extent
18 permitted by law."

19 Section 3. TEMPORARY PROVISION--TRANSITION PROVISION.--
20 With respect to capital improvement projects approved by the
21 state racing commission and financed for terms beyond June 30,
22 2004, the provisions of Subsection B of Section 60-1-15 NMSA
23 1978 regarding the offsetting of tax that were in effect on
24 January 1, 2004 shall be applicable until the financing
25 obligation is discharged or fully provided for.

.149320.3

